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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
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DEC 19 1996

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In the Matter of:

Federal-State Joint Board on  
Universal Service

CC Docket No. 96-45

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COMMENTS OF  
THE UTILITY REFORM NETWORK (TURN)  
ON THE RECOMMENDED DECISION  
OF THE FEDERAL-STATE JOINT BOARD

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**I. INTRODUCTION**

The Utility Reform Network ("TURN")<sup>1</sup> files these comments concerning the Recommended Decision of the Federal-State Joint Board on Universal Service ("Recommended Decision"), released on November 8, 1996 under CC Docket No. 96-45. The Recommended Decision presents a comprehensive new set of universal service support mechanisms, pursuant to the principles and requirements of the Telecommunications Act of 1996 ("the Act").

TURN is a non-profit organization that represents the interests of all California residential and small business customers with respect to telecommunications, gas and electric utility issues. Our work includes participating in proceedings before the California Public Utilities Commission ("CPUC"), the Federal Communications Commission ("the Commission"), and the Federal Energy

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<sup>1</sup> The Utility Reform Network was known previously as Toward Utility Rate Normalization.

Regulatory Commission ("FERC"). TURN is a member of the National Association of State Utility Consumer Advocates ("NASUCA"). TURN has vigorously participated in the CPUC's universal service and local competition dockets (and other related California proceedings) and, through NASUCA, in CC Docket 96-45.

These comments address three areas that TURN believes are important to ensuring that the universal service policies spelled out in the Act are achieved: 1) modifications to the Lifeline Assistance Program ("Lifeline"); 2) carrier funding of universal service; and 3) funding inside wire for schools and libraries.

**II. THE COMMISSION SHOULD ENSURE THAT MODIFICATIONS TO THE LIFELINE ASSISTANCE PROGRAM COMPLEMENT STATE EFFORTS TO EXPAND UNIVERSAL SERVICE IN A COMPETITIVE ENVIRONMENT.**

**A. In General, the Commission Should Adopt the Joint Board's Proposed Modifications to the Lifeline Assistance Program**

In general, TURN believes that the Joint Board's proposed modifications to the Commission's Lifeline Program would further the Act's objective that the Commission develop policies based on the "preservation and advancement of universal service. . . ." (the Act, §254 (b)). We recommend that the Commission adopt the proposals to: 1) include voluntary toll limitation in the Lifeline program (§384); 2) prohibit disconnection of Lifeline service for non-payment of toll (§387); and 3) prohibit service deposits for Lifeline customers who voluntarily elect to receive toll blocking. (§389)

**B. The Commission Should Clarify that Modifications to the Lifeline Assistance Program Do Not Conflict with California's Successful Universal Lifeline Telephone Service Program**

The Joint Board has offered recommendations intended to ensure that the Commission's Lifeline program is available to customers in every state. (¶417, ¶419) We support the Joint Board's efforts to extend the availability of lifeline support to low income customers. However, we would caution that such efforts should not -- and need not -- conflict with successful, existing programs administered by states, particularly California's ULTS program.

Specifically, we are concerned that language in the Recommended Decision might be interpreted to mean that in order to be eligible for universal service support, a local carrier in California may be forced to require externally documented certification for lifeline service. Such a requirement would conflict with California's Universal Lifeline Telephone Service Program (ULTS), in which customers are permitted to self-certify that they meet the income eligibility requirements for state lifeline service.

At ¶417, the Joint Board recommended that "... in order to be eligible for support from the new national universal service support mechanism pursuant to § 214(e)(1), carriers must offer Lifeline assistance to eligible low-income customers." It is not clear whether the term "Lifeline" applies solely to federal lifeline programs, or whether it also incorporates existing state programs, such as that offered by California. Interpreted narrowly, this language could imply that a carrier offering a discounted lifeline service in accordance with California's rules could be denied federal universal service support if the carrier did not require

externally documented proof of income eligibility as required by plan 2 of the Commission's Lifeline Assistance Program.<sup>2</sup> We ask that the Commission, in its adopted decision, make it clear that local service providers offering service in California are eligible for federal universal service support pursuant to §214(e)(1) if they are offering lifeline service pursuant to California's ULTS program.

For many years, California has implemented a very successful lifeline program, pursuant to state law.<sup>3</sup> Under the California system, a customer with yearly income that does not exceed a limit prescribed by the CPUC is eligible for ULTS service. Currently, ULTS customers pay a \$10.00 installation charge and \$5.62 per month for flat rate telephone service (one-half the tariffed rate for Pacific Bell 1FR service), encompassing all of the functionalities recommended by the Joint Board (§46), and additional functionalities considered to be part of basic telephone service in California.<sup>4</sup> The CPUC has a stated objective of ensuring that there is at least 95% telephone subscribership penetration for all customer segments, regardless of race, age or income.

The Joint Board noted that California receives only \$1.75 in federal support per lifeline customer, while contributing intrastate support to allow Lifeline

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<sup>2</sup> California is participating in the federal program under plan 1. §418, fn. 1397.

<sup>3</sup> California Public Utilities Code §§871 - 880.

<sup>4</sup> In D. 96-10-066, Appendix B (p. 5) the CPUC ruled that universal service, including lifeline service, is comprised of 17 discrete elements including: access to single party local exchange service; access to all interexchange carriers offering service to customers in a local exchange; ability to place calls; ability to receive free unlimited incoming calls; free touch tone dialing; free and unlimited access to 911/E911; access to local directory assistance, and access to foreign NPAs; Lifeline rates and charges for eligible customers; customer choice of flat or measured rate service; free provision of one directory listing per year as provided for in D.96-02-072; free white pages telephone directory; access to operator services; voice grade connection to public switched telephone network; free access to 800 or 800-like toll free services; one-time free blocking for information services and one time billing adjustments for charges incurred inadvertently, mistakenly or that were unauthorized; access to telephone relay service as provided for in Calif. PU Code § 2881; and free access to customer service for information about ULTS, service activation, service termination, service repair and bill inquiries.

rate reductions of at least \$7.00 in total.<sup>5</sup> For customers of GTE-California, the support provided by California to reduce the monthly recurring charge for ULTS is substantially greater than \$7.00 (\$11.23), due to the fact that GTEC has a monthly rate of \$17.25, and is required to offer flat rate ULTS service for \$5.62. Clearly, California does not need additional incentives in order to establish an effective lifeline program.

A cornerstone of California's ULTS program is the ability of customers to self-certify that they meet the income eligibility guidelines for the Lifeline program. ULTS customers are not required to provide external proof that they meet the income guidelines. Rather, they sign and submit a form, provided by their local telephone company, affirming that they are eligible to receive service under the ULTS program.

California's program works extremely well, largely due to self-certification. Formal certification processes can be cumbersome, expensive to administer, unfriendly to customers and a deterrent to subscription. They can also be administratively burdensome for carriers and commissions. California's ULTS program enjoys a high rate of participation, with well functioning procedures that pose a minimal administrative burden.

The CPUC recently concluded a comprehensive investigation and rulemaking into universal service.<sup>6</sup> Consumer representatives, Pacific Bell (the

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<sup>5</sup> Joint Board Recommended Decision, ¶418, fn. 1397.

<sup>6</sup> Before the Public Utilities Commission of the State of California, Rulemaking on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643, R. 95-01-020; Investigation on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643, I. 95-01-021.

state's largest LEC) and all major competitors in California supported retaining self-certification. Pacific Bell opposed instituting mandatory certification on the grounds that it could adversely affect California's ability to achieve the CPUC's goal of attaining 95% telephone penetration for all customer groups.<sup>7</sup> A 1993 study commissioned by the CPUC has shown there is very little (if any) intentional fraud in the form of ineligible customers receiving ULTS service.

For Californians, it is vitally important that the Commission take no action that would jeopardize the continued success of California's (ULTS) program. As the Commission moves to expand the federal lifeline program, it should clarify that local carriers providing ULTS service pursuant to California's rules are eligible for federal universal service support, pursuant to §254(e)(1). If the Commission declines to make this clarification, universal service in California -- the nation's most populated state -- will suffer. Either carriers will attempt to require formal external certification, which could have a detrimental impact on subscribership; or carriers could be denied federal universal service support. Either way, the Act's objective of expanding and advancing universal service would not be served.

**C. Customers of All Local Carriers, Including Resellers, Should be Able to Receive Lifeline Service**

If the Commission is to succeed in achieving the mandate of the Act to preserve and advance universal service, it is important that all carriers that provide service to residential customers be permitted to participate in the Commission's Lifeline programs. While local competition is in its infancy, it is particularly important for carriers who are resellers to be eligible to offer lifeline service.

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<sup>7</sup> See NASUCA comments, p. 7, fn. 2.



Building local networks is a capital-intensive process and will take time. In the nascent stage of local competition, most residential customers will be reached through resale.

Pursuant to §254(e)(1), the Joint Board made recommendations about which local carriers would be eligible for universal service support. The Joint Board interpreted the statute to mean that to be eligible for universal service support, a carrier must offer “. . . all of the specified services throughout the service area using its own facilities or using its own facilities in combination with the resale of the specified services purchased from another carrier, including the incumbent LEC or any other carrier.” (§160) Thus, pure resellers are not eligible for federal universal service support.

If the Commission adopts this recommendation, it should clarify that this language does not preclude resellers from eligibility to provide Lifeline service. Further, the Commission should establish rules to ensure that customers of all resellers (including those who own some facilities) have the option of benefiting from lifeline service. This could be achieved in one of two ways. One approach would be to require LECs to offer wholesale lifeline service (with appropriate wholesale discounts based on avoided cost) to resellers. In this case, the LEC would receive compensation from the Lifeline fund. The other option would be to permit resellers to provide Lifeline service and be directly compensated from the fund.

If resellers are not permitted to participate in the Lifeline program, there could be adverse consequences for both universal service and local competition. For example, some low income customers would have reduced

service options if Lifeline were not available to all carriers. A pure reseller that desired to serve an area comprised primarily of low income customers could not effectively do so absent the ability to participate in the Lifeline program. The experience under competition in the interLATA toll market has demonstrated that resale offers the potential for the development of innovative, locally-based telecommunications options, tailored to meet the needs of small communities of interest (e.g., the Working Assets long distance company). By clarifying that resellers are eligible to provide Lifeline service, the Commission would advance both universal service and local competition.

### **III. THE COMMISSION CORRECTLY REQUIRED CARRIERS TO FUND FEDERAL UNIVERSAL SERVICE SUPPORT**

The Joint Board correctly determined that funding universal service support mechanisms through an end user charge would violate the Telecommunications Act of 1996. The Joint Board rejected the suggestion of some commentators that universal service support mechanisms be funded through the Subscriber Line Charge (SLC) or a retail end user surcharge. In doing so, the Joint Board found that "... these mechanisms would violate the statutory requirement that carriers, not consumers, finance support mechanisms." (¶812) The Act is crystal clear on this point, in Section 254(d):

(d) *Telecommunications Carrier Contribution -- Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service. (Italics in original, underlining added).*

The Joint Board's conclusion that universal service cannot be funded through an end user surcharge is correct and should be upheld by the Commission in its decision.

#### **IV. INSIDE WIRING SHOULD NOT BE SUPPORTED BY THE UNIVERSAL SERVICE FUND**

The Joint Board recommends that schools and libraries be permitted to receive discounts for internal connections, commonly referred to as "inside wiring." (§473) While the Joint-Board's recommendation is well intentioned, it should not be adopted by the Commission because it would improperly fund a product that has been deregulated, inflate the cost of universal service support, and put pressure on telecommunications carriers to raise rates for basic telephone service.

TURN agrees with those commentators who argue that because inside wire is not a regulated service, it should not be eligible for universal service support. Nothing in the Act mandates funding inside wire and associated connection equipment.<sup>8</sup> To the contrary, the Act repeatedly stresses funding discounts for telecommunications services provided to schools and libraries.<sup>9</sup> We disagree with the Joint Board's contention that inside wire constitutes a telecommunications service. (§245) The Act defines "telecommunications" as . . .

. . . the transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.<sup>10</sup>

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<sup>8</sup> Separate Statement of Commissioner Rachelle B. Chong, Concurring in Part, Dissenting in Part, p. 7.

<sup>9</sup> See 47 U.S.C. §254(h) (1) (B), §254(b) (6); §254(c).

<sup>10</sup> 47 U.S.C. §3(a) (2) (48)

A "telecommunications carrier" is defined as "... any provider of telecommunications services . . . ." <sup>11</sup> The Act defines a "telecommunications service" as . . .

. . . the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available to the public, regardless of the facilities used. <sup>12</sup>

Inside wire and the act of installing it are clearly not telecommunications services within the meaning of the Act. A company installing inside wire is not providing a "telecommunications service" in which a fee is being charged for the transmission of information. Thus, the Commission is not mandated to fund inside wire.

There are sound public policy reasons for the Commission to decide not to fund inside wire from universal service support. An overarching concern is that funding inside wire increases the size of the fund by billions of dollars (\$469), which would push support for universal service to unreasonable, and likely unsustainable levels. These costs will ultimately be borne, at least in part, by the other customers of telecommunications services, and likely based on the elasticity of demand for each different service. A fund of the size required to support discounts on inside wire for schools and libraries would place pressure on carriers to raise rates for the most inelastic services (e.g., basic telephone service.) This would place the Commission's mandate to improve affordability and advance universal service in jeopardy.

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<sup>11</sup> 47 U.S.C. §3(a) (2) (49)


<sup>12</sup> 47 U.S.C. §3(a) (2) (51)

**V. CONCLUSION**

TURN requests that the Commission consider and adopt these Comments in the final order issued.

Respectfully submitted,

**THE UTILITY REFORM NETWORK (TURN)**

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Certificate of Service

I hereby certify that I have upon this day served the Foregoing Document of The Utility Reform Network upon all of the parties listed on the service list in this proceeding, CC Docket 96-45, by mailing via first class mail a copy of this document properly addressed to each such party.

Dated at San Francisco, California on December 18, 1996.

  
Regina Costa

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